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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,845	01/16/2004	Henry Gene Ramirez	FAS-003-US	6940
31955      7590      10/10/2007 ROSENFELD LAW CORPORATION 1638 FILBERT STREET SAN FRANCISCO, CA 94123				
EXAMINER				
KNOX, STEWART				
ART UNIT		PAPER NUMBER		
3641				
MAIL DATE		DELIVERY MODE		
10/10/2007		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/758,845

**Applicant(s)**

RAMIREZ ET AL.

**Examiner**

Stewart T. Knox

**Art Unit**

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 1-3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Supplemental Action***

I. This supplemental Non-Final Action is intended to replace the Final Action of April 6<sup>th</sup>, 2007.

***Claim Rejections - 35 USC § 112***

1. The Examiner acknowledges the resolution of previously indicated rejections under 35 USC 112. However, in view of the amended claims, a new ground of rejection is presented below.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 4-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jamison (5,970,879).

4. Jamison discloses a gun chamber (figure 2 element 16) for use with a gun action and barrel and configured for accepting a gun cartridge having a proximal and distal end for propelling a bullet of a pre-determined weight, the gun chamber having a case section (near the element number 16) proximal to the gun action and configured for housing a cartridge case, a free bore section (41) proximal to the barrel and distal end of the cartridge case, a shoulder section (angled section to the left of element 40 in figure 2A) at the proximal end angling inward

from the case section, a neck portion (terminating in element 40) located between the shoulder section and the free bore section wherein the neck portion is configured for accepting a cartridge having a mouth for accepting a bullet, wherein the length of the case section is inherently dependent upon water weight volume of the cartridge case, the bore diameter of the gun barrel, and the weight of the bullet. Jamison further discloses that the shoulder section angles inward at an angle of 30 degrees (col. 6 line 18), and a sum of the case section, shoulder section, neck section, and free bore section having a maximum total length of 4.0 inches (col. 4 lines 12-13, where the value as described in the claim is equal to L plus the section 41. L can be calculated to be max at 2.35, and the section 41 is very small relative to that amount, so it does not exceed 4.0 inches total). Further, the case section has a length (L) of between 1.9 and 2.5 inches, as shown above. Jamison does not disclose a 50-caliber cartridge with the measurements and ranges as claimed (discussed below).

5. Jamison discloses the claimed invention except for the water weight volume of the casing in grains multiplied by the bore diameter of the mouth in thousandths of an inch divided by the weight of the bullet in grains is greater than or equal to 110 and less than or equal to 145. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the bullet properties in that range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

6. Jamison discloses the claimed invention except for that the cartridge is a 50-caliber gun cartridge with a diameter of approximately 0.668 inches at the distal end and a mouth with a bore diameter of approximately .510 inches. It would have been obvious to one of ordinary skill in

the art at the time the invention was made to provide those values for a 50-caliber cartridge, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stewart T. Knox whose telephone number is (571) 272-8235. The examiner can normally be reached on Monday through Thursday, 8:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on (571) 272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stewart Knox/

/Michael J. Carone/  
Supervisory Patent Examiner, Art Unit 3641